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11 Attorneys for Defendant  
12 WILLIAM PAUL YOUNG

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

12 HACHETTE BOOK GROUP, INC., a ) Case No. CV 10-3246 JFW (JCx)  
13 Delaware Corporation, ) Assigned to the Hon. John F. Walter  
14 Plaintiff-in-Interpleader, )  
15 v. )  
16 WINDBLOWN MEDIA, INC., a )  
17 California corporation, WAYNE )  
18 JACOBSEN, BRAD CUMMINGS, )  
19 WILLIAM PAUL YOUNG, )  
20 Defendants-in-Interpleader. )  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

3 Defendant William Paul Young is the author of *The New York Times*  
4 bestselling Christian novel *The Shack*. In November 2009, Mr. Young filed a  
5 Complaint in California state court (the “State Court Action”) against its publishers  
6 Hachette Book Group, Inc. (“Hachette”) and Windblown Media, Inc.  
7 (“Windblown”) for failing to properly account and pay to him his contractual  
8 royalty and share of net profits for the novel. After losing three related pleading  
9 motions in the State Court Action, in which the State Court analogized Defendants’  
10 accounting practices as “Hollywood accounting” (RJN ¶ 2, Ex. 2), Hachette hired  
11 separate counsel. Dissatisfied with the results to date in the State Court Action,  
12 Hachette has filed a Complaint-in-Interpleader, seeking to deposit three months  
13 worth of net proceeds from the novel into a federal court account, and asking this  
14 federal court, not the state court, to determine how the proceeds should be allocated  
15 among the parties. Hachette’s Complaint-in-Interpleader (“Interpleader”)<sup>1</sup> is a  
16 transparent attempt at forum shopping, and will lead to piecemeal, inconsistent  
17 litigation between the State Court Action and this action. Hachette’s Interpleader  
18 should be dismissed pursuant to both Younger and Colorado River abstention  
19 principles.

20 The Court should dismiss the Interpleader pursuant to the Younger abstention  
21 doctrine, because the State Court Action (1) was already pending for months before  
22 Hachette filed the Interpleader; (2) provides Hachette an adequate opportunity to  
23 raise any claims; and (3) serves an important state interest, namely, the ability of a  
24 state court to adjudicate claims without federal court interference. Middlesex  
25 County Ethics Committee v. Garden State Bar Ass'n, 457 U.S. 423, 431 (1982).

<sup>28</sup> <sup>1</sup> “Interpleader” refers to Hachette’s First Amended Complaint-In-Interpleader.

1       Similarly, and alternatively, pursuant to the Colorado River doctrine, the  
 2 Court, in an exercise of “wise judicial administration,” should dismiss the  
 3 Interpleader since it is substantially similar to the claims in the State Court Action  
 4 and would lead to inconsistent, piecemeal litigation in two forums. Under  
 5 Hachette’s chaotic approach, the State Court Action would be adjudicating the  
 6 amounts owed to Mr. Young by Defendants Hachette and Windblown for the period  
 7 May 2007 to December 2009 and adjudicating additional amounts owed to Mr.  
 8 Young over and above the interpled funds from January 2010 forward at the  
 9 same time as this Court would adjudicate how the interpled funds from January  
 10 2010 forward should be allocated among the parties. The potential for duplicative  
 11 litigation and inconsistent rulings is enormous. The Colorado River abstention  
 12 doctrine was designed to avoid such chaos. Virtually all of the Colorado River  
 13 factors argue for dismissal – i) the order in which the forums obtained jurisdiction,  
 14 ii) the fact that state law controls, iii) the existence of a satisfactory state  
 15 interpleader remedy for Hachette, iv) the substantial similarity, if not identity, of the  
 16 two actions, v) Hachette’s forum shopping, and vi) the desirability of avoiding  
 17 piecemeal litigation all argue for abstention. See Moses H. Cone Mem. Hosp. v.  
 18 Mercury Const. Corp., 460 U.S. 1, 16 (1983), Nakash v. Marciano, 882 F.2d 1411,  
 19 1416 (9th Cir. 1989), Fireman’s Fund Ins. Co. v. Quackenbush, 87 F.3d 290 (9th  
 20 Cir. 1996) (listing factors to apply in Colorado River abstention analysis).

21       Since Hachette’s Interpleader seeks to invoke this Court’s equitable  
 22 jurisdiction, the proper remedy upon finding that Younger or Colorado River  
 23 abstention principles apply is dismissal of the action rather than a stay. Bradley v.  
 24 Kochenash, 44 F.3d, 166, 168 (2nd Cir. 1995) (interpleader is an equitable  
 25 proceeding); Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 717-722 (1996)  
 26 (when relief sought is equitable, courts have discretion to dismiss claim); Beltran v.  
 27 State of Calif., 871 F.2d 777, 782 (9th Cir. 1988) (Younger abstention requires  
 28 dismissal of action).

1 For all of these reasons, therefore, this Court should dismiss Hachette's  
 2 Interpleader.

3 **II. FACTUAL AND PROCEDURAL BACKGROUND**

4 **A. Mr. Young, Windblown & Hachette.**

5 Mr. Young is the author of *The New York Times* bestseller *The Shack*, a  
 6 Christian novel which explores a father's coming to terms with the murder of his  
 7 daughter and his reawakened relationship with God. Defendant Windblown is a  
 8 small Christian publishing house based in Ventura County, California. Windblown  
 9 began to publish and distribute *The Shack* in 2007. On May 10, 2008, Windblown  
 10 and Mr. Young entered into a written Publishing Contract pursuant to which  
 11 Windblown was authorized to publish the novel throughout the world. Windblown  
 12 thereafter entered into a May 13, 2008 Publishing Co-Venture Agreement with  
 13 larger New York based publisher Hachette pursuant to which Hachette was  
 14 authorized to distribute the work throughout the world. See Complaint of William  
 15 P. Young [Declaration of Michael T. Anderson ("Anderson Decl."), Ex. A; Request  
 16 for Judicial Notice ("RJN"), Ex. A] ¶¶ 12-13.

17 Mr. Young is entitled to be paid two revenue streams from publication of his  
 18 work. First, Mr. Young receives a fixed per book royalty of \$0.50 per  
 19 paperback/\$1.00 per hardback copy sold in the United States. Young Compl., Ex.  
 20 A, ¶ 3 (a). This amount has historically been paid directly by Hachette to Mr.  
 21 Young. Interpleader, ¶ 21. Second, Mr. Young receives a one-third share of net  
 22 profits generated by the work by the publisher. Id. Historically, Mr. Young's share  
 23 of profits is calculated and paid in two steps: i) Hachette provides a distribution  
 24 statement to Windblown showing revenues and expenses it incurred in distributing  
 25 the work and pays Windblown its share of Defined Proceeds set forth in the  
 26 Windblown-Hachette Publishing Co-Venture Agreement, and ii) Windblown then  
 27 takes this information, prepares its accounting encompassing both Hachette and  
 28 Windblown activity and expenses, and delivers an accounting statement to Mr.

1 Young along with payment of what it calculates is Mr. Young's share of net profits.  
 2 Id. ¶¶ 22-24.

3       **B. Young Files the State Court Action.**

4       In November 2009, after an audit of Windblown's financial records was  
 5 performed, Mr. Young filed a complaint against Windblown and Hachette in  
 6 California Superior Court, Ventura County, Case No. 56-2009-00362329 (the  
 7 "Young Complaint"). RJN ¶ 1, Ex. 1; see also Anderson Decl. ¶ 2, Ex. 1. In the  
 8 Young Complaint, Mr. Young alleged that Defendants had engaged in a variety of  
 9 improper accounting practices designed to reduce both his per book royalty and his  
 10 share of net profits, including, but not limited to: (i) excluding nearly 40% of all  
 11 sales from the calculation of Mr. Young's share of profits and per book royalty by  
 12 designating the sales "high discount sales;" (ii) paying themselves a 10%  
 13 distribution fee nowhere authorized by the Publishing Contract, (iii) refusing to pay  
 14 Mr. Young a share of profits earned by Hachette, (iv) deducting an inflated return  
 15 reserve of \$4.2 million despite the work's low 1.2% return history, and (v)  
 16 deducting the per book royalty paid by Mr. Young before calculating net profits.  
 17 Young Complaint ¶¶ 16-20. Mr. Young claimed that defendants' accounting  
 18 improprieties have deprived him of over \$8 million through December 2008 alone.  
 19 Id. ¶ 2. Notably, Mr. Young's Complaint alleged that not only was his share of net  
 20 profits understated, but his per book royalty was as well. Additionally, Mr. Young  
 21 alleged that not only Windblown's accounting was improper but Hachette's as well.  
 22 Id., ¶¶ 17-20.<sup>2</sup>

23  
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26       <sup>2</sup> Mr. Young, for instance, alleges that Hachette has also improperly deducted a  
 27 10% distribution fee it paid itself, imposed an inflated return reserve, refused to pay  
 28 the per book royalty on "high-discount" sales, and refused to pay Mr. Young a share  
 of profit it earned on the novel. Id.

1                   **C. Defendants Unsuccessfully Demur and Move to Strike Mr. Young's**  
 2                   **Complaint.**

3                   Both Windblown and Hachette each filed a demurrer and motion to strike the  
 4 Young Complaint. The Court, noting that "Publishers Windblown/Hachette,  
 5 melodramatically arguing on demurrer and MTS that the author's complaint seeking  
 6 only compensatory damages and an accounting is 'a shocking display of greed,  
 7 overreaching and ingratitude,'" analogized Defendants' accounting practices to  
 8 "Hollywood bookkeeping," found that the Complaint "was very specifically  
 9 pleaded," and denied all of the Defendants' Motions. RJN ¶ 2, Ex. 2, Ruling; see  
 10 also Anderson Decl. ¶ 3 Ex. 2.

11                   **D. Windblown Files Its Cross-Complaint in the State Court Action.**

12                   In March 2010, Defendant Windblown then filed its Cross-Complaint in the  
 13 State Court Action against Mr. Young. Windblown alleged that Mr. Young has  
 14 breached its obligation to it by "failing to act in concert with Windblown in  
 15 connection with the disposition of the motion picture rights to the Book," refusing  
 16 "to assign the motion picture rights to the Book to The Shack Movie, LLC," and  
 17 requested damages "in excess of Five Million Dollars." RJN ¶ 3, Ex. 3, Cross-  
 18 Compl. ¶¶ 37, 39; see also, Anderson Decl. ¶ 4, Ex. 3, ¶¶ 37, 39.

19                   **E. Discovery in the State Court Action.**

20                   Defendants Windblown and Hachette have also served substantial discovery  
 21 on Mr. Young, requiring him to respond to numerous interrogatories and to produce  
 22 over 1,800 pages of documents. Windblown and Hachette have noticed his  
 23 deposition as well. Mr. Young, in turn, is actively involved in document discovery  
 24 now with Windblown and Hachette. Anderson Decl. ¶ 5.

25                   **F. The Federal Court Filings**

26                   **1. Jacobsen and Cummings' Complaint.**

27                   Plaintiffs' Jacobsen and Cummings, the two principals of Windblown, on  
 28 April 29, 2010, filed a Complaint in this Court seeking a determination that they are

1 somehow the joint authors of *The Shack* and requesting monetary damages for Mr.  
 2 Young's conduct in disposing of the motion picture rights to the novel. Case No.  
 3 CV 10-3246 JFW. The allegations in the Windblown Cross-Complaint in the State  
 4 Court Action and the federal court Complaint are virtually identical and are subject  
 5 to Mr. Young's pending Motion to Dismiss.

6 **2. Hachette's Interpleader.**

7 Following suit, Hachette filed its recent Interpleader in federal court. It seeks  
 8 to deposit the share of "net proceeds" payable by it to Windblown for the first  
 9 quarter of 2010 pursuant to the Windblown-Hachette Publishing Co-Venture  
 10 Agreement. Interpleader ¶¶ 5, 28. The amount sought to be deposited is after  
 11 Hachette has unilaterally determined what revenue to include and expenses to  
 12 deduct with respect to its distribution of the novel. Id., ¶ 5 ("Hachette is also  
 13 obligated to send payments to Windblown of certain 'Defined Proceeds' based on  
 14 revenues generated by Hachette from the Book, net of the author royalty payments  
 15 and certain deductible expenses incurred by Hachette."); ¶ 22.

16 The fund sought to be interpleaded is only a small subset of the amounts at  
 17 stake in the State Court Action. First, it only includes the amount of "Net Proceeds"  
 18 from the first quarter of 2010 forward – Mr. Young alleges that Windblown and  
 19 Hachette have improperly accounted for his share of royalties and net profits from  
 20 May 2007 forward. The proceeds from 2007, 2008, and 2009, of course, are not  
 21 included in the Interpleader amount. Second, the amount sought to be interpleaded  
 22 is only Windblown's share of "Net Proceeds"; it does not include any amounts for  
 23 the additional per-book-fixed-royalty to which Mr. Young claims he is entitled that  
 24 is supposed to be paid by Hachette directly. Third, the amount sought to be  
 25 interpleaded is the amount of "Net Proceeds" Hachette claims it is supposed to remit  
 26 to Windblown after it has unilaterally determined the revenue to include and  
 27 expenses to deduct in arriving at the "Net Proceeds" amount for Q1 2010. It does  
 28 not include the amounts Mr. Young claims Hachette has improperly not included in

1 revenue or the amounts Mr. Young claims Hachette has improperly deducted in  
 2 expenses.

3 **HACHETTE'S INTERPLEADER SHOULD BE DISMISSED**

4 **PURSUANT TO THE YOUNGER OR COLORADO RIVER  
 5 ABSTENTION DOCTRINES.**

6 Hachette's Interpleader is an attempt to remove a slice of the case currently  
 7 pending in the State Court Action and relitigate it in federal court. Hachette's  
 8 Interpleader should be dismissed pursuant to the Younger and/or Colorado River  
 9 abstention doctrines.

10 **A. Hachette's Interpleader Should Be Dismissed Pursuant To The  
 11 Younger Abstention Doctrine.**

12 Younger abstention, originating from Younger v. Harris, 401 U.S. 37, 49-53  
 13 (1971), is a doctrine of equitable judicial restraint, not a jurisdictional limitation.  
 14 William W. Schwarzer, et al., Cal. Practice Guide: Fed. Civ. Pro. Before Trial  
 15 § 2:1291.1a (The Rutter Group 2009). The court's discretion to abstain from  
 16 hearing a claim under Younger "does not arise from lack of jurisdiction in the  
 17 District Court, but from strong policies counseling against the exercise of such  
 18 jurisdiction where particular kinds of state proceedings have already been  
 19 commenced." Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc. v.  
 20 Nelson, 477 U.S. 619, 626 (1986).

21 Federal courts may abstain from hearing a claim where a state court  
 22 proceeding (1) is pending when the federal action is filed; (2) implicates important  
 23 state interests; and (3) provides adequate opportunity to raise the claims alleged.  
 24 Middlesex County Ethics Committee v. Garden State Bar Ass'n, 457 U.S. 423, 431  
 25 (1982). If these three Younger requirements are satisfied, federal court abstention is  
 26 required, absent extraordinary circumstances such as bad faith, harassment, or a  
 27 patently unconstitutional state statute. Middlesex County Ethics Comm., 457 U.S.  
 28

1 at 435, 437; Younger, 401 U.S. at 53-54. All of these elements are satisfied in this  
 2 case, justifying the Court's exercise of abstention.

3 First, the State Court Action – Young v. Windblown Media, Inc., et al. – was  
 4 pending when Hachette filed the Interpleader. Young filed his complaint in the  
 5 State Court Action on November 19, 2009. Hachette, after losing their pleading  
 6 motions attacking Young's complaint, filed their Complaint-in-Interpleader initially  
 7 on May 11, 2010 and a subsequent First Amended Complaint-in-Interpleader on  
 8 June 3, 2010. The State Court Action is still pending. Defendants have served  
 9 extensive discovery requests to Mr. Young and third party witnesses, Mr. Young has  
 10 produced voluminous documentation in response, and Defendants have noticed the  
 11 deposition of Mr. Young. Anderson Dec., ¶ 4.

12 Second, the State Court Action implicates important state interests. For  
 13 purposes of Younger abstention, a wide variety of state interests qualify as  
 14 "important." Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc. v.  
 15 Nelson, 477 U.S. 619, 626 (1986). For example, an important state interest includes  
 16 the ability of state courts to adjudicate and enforce their orders. See Pennzoil Co. v.  
 17 Texaco, Inc., 481 U.S. 1, 13-14 (1987) (Younger abstention proper based on  
 18 important state interest in enforcing state court orders and judgments including  
 19 orders forcing persons to transfer property). Indeed, both this Circuit and the U.S.  
 20 Supreme Court have held that the state's interest in administering cases brought  
 21 before its courts is at the heart of the comity principle underlying Younger  
 22 abstention:

23 the Court distilled the comity principles that animate abstention – that  
 24 the state's interest in administration of its judicial system is important,  
 25 that federal court interference would be an offense to the state's  
 26 interest, and that such interference would both unduly interfere with the  
 27 legitimate activities of the state and readily be interpreted as reflecting  
 28 negatively upon the state court's ability ....

1 Gilbertson v. Albright, 381 F.3d 965, 972 (9th Cir. 2004) (citing Juidice v. Vail 430  
 2 U.S. 327 (1977)); see also Gilbertson, 381 F.3d at 970 (“the Court observed that  
 3 Congress over the years has manifested an intent to permit state courts to try state  
 4 cases free of federal interference.”). Referencing Middlesex and Dayton Christian  
 5 Schools, the Supreme Court noted that “judicial proceedings or disciplinary  
 6 proceedings which are judicial in nature are the type of proceeding that does  
 7 implicate an important state interest.” Gilbertson, 381 F.3d at 977 (citing New  
 8 Orleans Public Service, Inc. v. Council of New Orleans, 491 U.S. 350, 370 (1989);  
 9 Middlesex, 457 U.S. at 433-434; and Dayton Christian Schools, 477 U.S. at 627.

10       Third, the State Court Action provides an adequate opportunity for Plaintiffs  
 11 to litigate their Interpleader. Hachette is already a defendant in the State Court  
 12 Action and can file a Complaint-In-Interpleader in the state court action pursuant to  
 13 California’s interpleader statute. See C.C.P. § 386. Indeed, Hachette cannot point  
 14 to any reason why it filed the Interpleader in federal court other than its transparent  
 15 attempt at forum shopping.

16       **B.     Hachette’s Interpleader Should Be Dismissed Pursuant to the**  
 17       **Colorado River Abstention Doctrine.**

18       Alternatively, this Court should dismiss the Interpleader pursuant to the  
 19 Colorado River abstention doctrine. In the interest of “wise judicial administration,”  
 20 federal courts may stay a case where a concurrent state action is pending in which  
 21 the identical issues are raised. William W. Schwarzer, et al., Cal. Practice Guide:  
 22 Fed. Civ. Pro. Before Trial § 2:687.1 (The Rutter Group 2009) (citing Colorado  
 23 River Water Conservation Dist. v. United States, 424 U.S. 800, 815 (1976)). The  
 24 Colorado River doctrine “give[s] regard to conservation of judicial resources.”  
 25 Colorado River, 424 U.S. at 817.

26       The decision to abstain rests on a “careful balancing” of several factors as  
 27 they apply in a given case. Moses H. Cone Mem. Hosp. v. Mercury Const. Corp.,  
 28 460 U.S. 1, 16 (1983). For example, in Colorado River the Court examined four

1 factors to determine whether staying proceedings was appropriate: (1) whether  
 2 either court has assumed jurisdiction over a res; (2) the relative convenience of the  
 3 forums; (3) the desirability of avoiding piecemeal litigation to prevent conflicting  
 4 results; and (4) the order in which the forums obtained jurisdiction. See 424 U.S. at  
 5 818. In Moses Cone, the Court articulated two more considerations; (5) whether  
 6 state or federal law controls; and (6) whether the state proceeding is adequate to  
 7 protect the parties' rights. See 460 U.S. at 25-26, 103 S.Ct. at 941-42. In addition,  
 8 courts have recognized an additional factor: (7) whether the state and federal suits  
 9 are substantially similar. Nakash v. Marciano, 882 F.2d 1411, 1416 (9th Cir. 1989).  
 10 Finally, in Fireman's Fund Ins. Co. v. Quackenbush, 87 F.3d 290 (9th Cir. 1996),  
 11 the court recognized that (8) evidence of forum-shopping can justify Colorado River  
 12 abstention. "These factors are to be applied in a pragmatic and flexible way, as part  
 13 of a balancing process rather than as a 'mechanical checklist.'" American Int'l  
 14 Underwriters, (Phillipines), Inc. v. Continental Ins. Co., 843 F.2d 1253, 1257 (9th  
 15 Cir.1988) (quoting Moses Cone, 460 U.S. at 16).

16 In this case, the vast majority of factors weighs heavily in favor of abstention.  
 17 First, the state court forum obtained jurisdiction first, in November 2009, when  
 18 Young filed his complaint. Hachette, after substituting in new counsel, filed the  
 19 federal Interpleader in May 2010, six months later, after substantial litigation of the  
 20 case in the state court.<sup>3</sup>

21 Second, the state and federal cases are substantially similar. Hachette's  
 22 Interpleader raises identical issues pending in the State Court Action, namely, the  
 23 proper accounting for the proceeds from *The Shack* between the author and the two  
 24 publishers.

25  
 26  
 27 <sup>3</sup> The existence of a res and the convenience of the forum are neutral or non-applicable factors.  
 28 Although Hachette is attempting to deposit Windblown's share of net proceeds as a res in this  
 Court, this Court has yet to rule on whether an interpleader action is viable in this Court.

1       Third, there is a substantial risk of conflicting result if piecemeal litigation is  
 2 not avoided, the paramount concern of Colorado River abstention doctrine. See  
 3 Romine v. Compuserve Corporation, 160 F.3d 337, 341 (6th Cir.1998) (“In *Moses*  
 4 *H. Cone*, the Supreme Court noted ‘the consideration that was paramount in  
 5 *Colorado River* itself – the danger of piecemeal litigation.’ 460 U.S. at 19”) (federal  
 6 court security class action stayed pending resolution of parallel state class action).  
 7 The state court might make certain findings concerning the proper accounting for  
 8 the net profits from the novel for 2007 to December 2009, while the federal court  
 9 might make inconsistent rulings for the first quarter of 2010 forward. The state  
 10 court might find that certain deductions taken by Hachette for the first quarter of  
 11 2010 before arriving at net proceeds are improper – affecting the amounts Hachette  
 12 is attempting to deposit in Interpleader. The same witnesses, facts and chronology  
 13 would have to be tried in both courtrooms, perhaps at the same time. Hachette’s  
 14 procedural approach to its Interpleader invites disaster. This Court should avoid it.

15       Fourth, there is evidence of forum shopping. Hachette’s interpleader was  
 16 only filed after the substitution of new counsel and losing several related pleading  
 17 motions in the State Court.

18       Fifth, the resolution of the claim involves the application of California  
 19 contract law, not federal law. The May 10, 2008, Publishing Contract contains a  
 20 California choice of law clause. Young Complaint, Ex. A, ¶ 23.

21       Sixth, the State Court Action is adequate to protect Hachette’s rights.  
 22 Hachette can easily file its Interpleader in the State Court Action.

23       Thus, in order to avoid the consequences of duplicative litigation proceeding  
 24 in both state court and federal court on similar claims at the same time, this Court  
 25 should dismiss the second claim for relief for breach of contract pursuant to the  
 26 Colorado River doctrine.

27  
 28

### C. Hachette's Interpleader Should Be Dismissed, Not Stayed.

When the relief sought by a federal action is equitable in nature, the federal court may dismiss the case based on abstention principles. See Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 731 (1996). Hachette's Interpleader constitutes an equitable action. Interpleader is "an equitable proceeding governed by equitable principles." William W. Schwarzer, et al., Cal. Practice Guide: Fed. Civ. Pro. Before Trial § 10:59, p. 10-25 (The Rutter Group 2009); Bradley v. Kochenash, 44 F.3d 166, 168 (2d Cir. 1995). This Court, therefore, should dismiss, rather than stay, Hachette's equitable Interpleader action.

There is no common sense reason to stay the Interpleader. The State Court Action will determine all relevant issues surrounding the accounting to Mr. Young of his share of net profits and his per book royalty from inception to the date of trial. There will be nothing for this Court to accomplish or determine in staying the action. For example, there is no statute of limitations issues with respect to Hachette's Interpleader, nor is there any federal claim Hachette has raised which cannot be raised in the underlying State Court Action. Dismissal, therefore, is the appropriate remedy.

## IV. CONCLUSION

Hachette's Interpleader is a belated attempt by its new counsel to transfer a subset of the issues pending in the State Court Action to this Court for determination. In order to avoid the inevitable prospect of duplicative litigation and inconsistent adjudication, this Court should dismiss the Interpleader pursuant to Younger and Colorado River abstention principles.

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